

Remarks

Claims 1-18, 24 and 25 have been amended and claims 26-30 have been cancelled without prejudice or disclaimer of the encompassed subject matter. The amendment to claims 1, 2 and 13 addresses the substitution available for variable Q¹. The amendment to claim 25 identifies the tumor to be treated as a breast tumor. Applicants submit that these amendments are fully supported by the specification as originally filed. All additional amendments to the claims are formalistic in nature and are intended to add further clarity to the recited subject matter. Accordingly, Applicants submit that no prohibited new matter has been added by any of the amendments.

1. Technically Related Applications

Applicants would like to bring to the Examiner's attention the following applications with the same assignee that may be considered to be technically related.

Inventor	U.S. Application No. Filing Date	Examination Status
Hennequin <i>et al.</i>	10/494,137 October 6, 2004	abandoned
Hennequin <i>et al.</i>	10/494,388 October 1, 2004	abandoned
Bradbury <i>et al.</i>	10/571,851 March 15, 2006	response filed
Bradbury <i>et al.</i>	10/572,262 March 16, 2006	response filed
Hennequin <i>et al.</i>	10/554,202 October 24, 2005	office action mailed
Hennequin <i>et al.</i>	11/283,415 November 21, 2005	response filed
Hennequin <i>et al.</i>	11/443,208 May 31, 2006	unexamined
Hennequin <i>et al.</i>	11/443,395 May 31, 2006	unexamined
Bradbury <i>et al.</i>	11/628,011 November 30, 2006	unexamined
Barlaam <i>et al.</i>	11/792,921 June 13, 2007	unexamined

Inventor	U.S. Application No. Filing Date	Examination Status
Bradbury	11/817,391 August 29, 2007	unexamined
Bradbury	11/817,393 August 29, 2007	unexamined
Bradbury	11/912,792 October 26, 2007	unexamined
Bradbury	11/912,794 October 26, 2007	unexamined
Bradbury	12/067,415 March 19, 2008	unexamined
Bradbury <i>et al.</i>	12/067,416 March 19, 2008	unexamined
Barlaam <i>et al.</i>	12/095,665 May 30, 2008	unexamined
Barlaam <i>et al.</i>	12/095,659 May 30, 2008	unexamined

2. Information Disclosure Statement

The Examiner indicates that Applicants' earlier submitted Information Disclosure Statements of May 9, 2006; August 18, 2006; January 17, 2007; June 8, 2007; and January 28, 2008 require inventor names to be entered for all of the listed foreign documents.

Applicants respectfully disagree that entry of the inventor names is required for foreign documents listed on a PTO-1449 form and point to 37 C.F.R. 1.98(b)(4), which states that

Each foreign patent or published foreign patent application listed in an information disclosure statement must be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application.

No mention is made in the above passage of any requirement of listing each inventor name. In contrast, 37 C.F.R. 1.98(b)(1), which addresses U.S. patents, states that

Each U.S. patent listed in an information disclosure statement must be identified by inventor, patent number, and issue date.

In view of the above, Applicants respectfully request that this objection be withdrawn.

3. Rejection under 35 U.S.C. 112, second paragraph

Claims 24-30 are rejected as allegedly indefinite for the following reasons asserted by the Examiner:

- A. “converting a quinazoline derivative of the formula I into another quinazoline derivative of the formula I”

The Examiner indicates that the above-identified phrase as recited in claim 24 is unclear as to “derivative is converted into which.”

Applicants submit that a person of ordinary skill in the art would understand the meaning of the contested phrase and would have sufficient knowledge to chemically convert a compound encompassed by generic formula I into a different compound that is still encompassed by generic formula I. For example, a person of ordinary skill in the art would know how to protect a hydroxy or amino group present in a compound of formula I to generate the corresponding protected alcohol or amine that is still encompassed by formula I. Accordingly, Applicants respectfully request that this rejection be withdrawn.

- B. “...treating a tumour sensitive to inhibition of the erbB2...”

Claim 25 is rejected as indefinite due to the above recitation.

While Applicants do not acquiesce to the merits of this rejection, Applicants have eliminated this phrase in claim 25 via amendment. Accordingly, Applicants respectfully request that this rejection be withdrawn.

- C. “...inhibition of erbB2 ...”

Claims 28-30 are rejected as indefinite due to the above recitation.

While Applicants do not acquiesce to the merits of this rejection, Applicants have cancelled claims 28-30 without prejudice or disclaimer of the encompassed subject matter. Accordingly, Applicants submit that this rejection has been effectively mooted.

4. **Rejection under 35 U.S.C. 112, first paragraph**

A. substitution of Q¹

Claims 1-17, 19 and 24-36 are rejected as lacking enablement due to the recited scope of substitution of Q¹. The Examiner indicates that while the specification is enabling for simple substituents such as methyl or halogen, it “does not reasonably provide enablement for making and using the remaining compounds of formula I wherein ring Q¹ is extensively substituted.” An analysis of each of the *In re Wands* factors is provided by the Examiner in support of this assertion.

While Applicants do not acquiesce to the merits of this rejection, Applicants have amended claim 1 to reduce the scope of the contested level of substitution of Q¹ such that Q¹ optionally bears one or more substituents, which may be the same or different, selected from halogeno, hydroxy, (1-4C)alkyl and (1-4C)alkoxy. As representative support for these particular substituents, Applicants point to page 35, lines 1-3 of the corresponding PCT application and compounds 6, 8 and 17 in Table 2 at page 165.

The Examiner indicates on page 6 of the current Office Action that “the [claimed] process does not teach how Q¹ can be further substituted...” Applicants respectfully disagree with this assertion and point to page 279 of the corresponding PCT application, where scheme (b) of process claim 24 shows that a simple generic structure containing Q¹ depicted as formula V reacts with a quinazoline of formula IV to provide a compound of formula I. Applicants submit that there are numerous compounds of the formula V (*i.e.*, with widely varying substituents) that are readily available either commercially or from prior art preparations. Accordingly, Applicants submit that the specification adequately provides at least one methodology of preparing compounds of formula I from readily available compounds (of structure V) capable of containing diverse substituents on Q¹. For at least the above-discussed reasons, Applicants submit that claim 1 as amended relative to the substitution of Q¹ is enabled by the specification and therefore respectfully request that this rejection be withdrawn.

B. Claims 25-30

Claims 25-30 are rejected as lacking enablement for the reasons given at pages 7-11 of the current Office Action. The Examiner does indicate that the specification is enabling for a method of treating a breast tumor.

While Applicants do not acquiesce to the merits of this rejection, Applicants have, in order to expedite allowance of the subject application, amended claim 25 to recite the treatment of a breast tumor and cancelled claims 26-30 without prejudice or disclaimer of the encompassed subject matter. Accordingly, Applicants respectfully request that this rejection be withdrawn.

5. Allowed Claims

Claim 18 is indicated as being allowed.

In view of the amendments and remarks presented in this response, Applicants submit that all of the pending claims should now be in a condition for allowance.

6. Conclusion


The foregoing amendments and remarks are being made to place the application in a condition for allowance. Applicants respectfully request reconsideration and the timely allowance of the pending claims. Should the Examiner find that an interview would be helpful to further prosecution of this application, she is invited to telephone the undersigned at her convenience.

Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or to credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **Constructive Petition for Extension of Time** in accordance with 37 C.F.R. 1.136(a)(3).

Dated: December 12, 2008

Morgan, Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: 202-739-3000
Fax: 202-739-3001

Respectfully submitted
Morgan, Lewis & Bockius LLP



Gregory T. Lowen
Registration No. 46,882
Direct: 202-739-5915